

United States District Court
Eastern District of California

Larry Giraldes,

Plaintiff,

vs.

T. Prebula, et al.,

Defendants.

No. Civ. S-01-2110 LKK PAN P

Order

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Plaintiff moves to modify the schedule made January 7, 2005, to extend time for discovery. Defendants oppose.

An order governing discovery was made April 16, 2004. Pursuant to the original schedule, discovery closed December 27, 2004. The Clerk of the Court duly served the schedule on plaintiff but the postal service returned it September 13, 2004, because time for forwarding plaintiff's mail expired. December 1, 2004, I recommended this action be dismissed. See L. R. 83-183(b), 83-182(d). December 15, 2004, plaintiff notified the

1 court of his new address and so December 29, 2004, the clerk
2 served the findings and recommendations on plaintiff at his new
3 address. To compensate for the time lost because of plaintiff's
4 address change, January 7, 2005, I amended the schedule so
5 discovery closed, and all motions necessary to resolve discovery
6 disputes were to be filed no later than March 2, 2005.

7 A schedule may be modified only upon a showing of good
8 cause, viz., the moving party demonstrates he cannot meet the
9 deadline despite exercising due diligence. Fed. R. Civ. P.
10 16(b); Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609
11 (9th Cir. 1992).

12 Plaintiff asserts he could not timely complete discovery
13 because of his address change and because prison lockdowns have
14 limited his time in the law library. I once amended the schedule
15 to compensate for plaintiff's address change and plaintiff does
16 not explain why he needed access to the law library to discover
17 facts.

18 Plaintiff fails to demonstrate he was unable to meet the
19 deadline despite due diligence.

20 I therefore deny plaintiff's March 28, 2005, motion.

21 Dated: November 29, 2005.

22 /s/ Peter A. Nowinski
23 PETER A. NOWINSKI
24 Magistrate Judge
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